

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ZUHRIA S. FARWANAH
2 Castle Avenue
Jackson, NJ 08527-2406

Plaintiff

v.

BCA FINANCIAL SERVICES, INC.,
A Debt Collection Company
c/o Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301

Defendant

CIVIL ACTION

NO.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 (“FDCPA”).

2. The FDCPA requires a mandatory initial notice as an informal dispute mechanism. 15 U.S.C. § 1692g(a).

3. The notice alerts the consumer of his rights to, *inter alia*, dispute his debt in writing within thirty days after receipt of the notice. *See* 15 U.S.C. § 1692g(a)(3).

4. Only a *written* dispute is sufficient to trigger the debt collector’s obligation to cease collection and verify the debt. *See* 15 U.S.C. § 1692g(b). Oral disputes, such as a dispute via telephone, are insufficient to trigger any obligation of the debt collector. *See Caprio v. Healthcare Revenue Recovery Grp., LLC*, 709 F.3d 142, 148 (3d Cir. 2013).

5. The validation notice must not be overshadowed or contradicted by other messages from the debt collector.

6. Defendant is subject to strict liability for sending an initial collection letter to Plaintiff which obscured the required notice, and which failed to provide the validation notice in a conspicuous and prominent manner, in violation of the FDCPA.

II. JURISDICTION

7. Jurisdiction arises under the FDCPA, 15 U.S.C. §1692k, and 28 U.S.C. §§1331 and 1337.

8. *In personam* jurisdiction exists and venue is proper as Defendant sent the relevant letter to an address in this district which caused harm in this district.

III. PARTIES

9. Plaintiff, Zuhria S. Farwanah (“Farwanah” or “Plaintiff”), is a consumer who resides at 2 Castle Avenue, Jackson, NJ 08527-2406.

10. Defendant, BCA Financial Services, Inc. a Debt Collection Company, (“BCA”) is upon information and belief a Florida corporation with its registered agent being Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301.

11. BCA regularly engages in the collection of consumer debts by use of the mail and telephone.

12. BCA regularly sends debt collection letters out on behalf of creditors including Monmouth Medical Center Southern Campus.

13. BCA regularly attempts to collect consumer debts alleged to be due another.

14. BCA is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. § 1692a(6).

IV. STATEMENT OF CLAIM

15. On October 5, 2017, BCA sent Plaintiff an initial written communication in connection with a Monmouth Medical Center Southern Campus debt alleged due. (Exhibit “A”, redacted). Plaintiff disputes the debt.

16. Section 1692g(a) of the FDCPA requires a debt collector to provide a consumer with a Verification Rights Notice (“Notice”) containing information about the alleged debt and a consumer’s right to dispute and seek validation as more specifically set forth in subsections (a)(1)-(5).

17. Only a *written* dispute triggers BCA’s obligation to provide Ms. Farwanah verification of the debt.

18. The Notice is an important statutory right which must be effectively conveyed to the consumer.

19. The Notice must be sufficiently prominent to be noticed. It cannot be obscured, overshadowed, nor contradicted by other language or notices in the letter.

20. A debt collector may not mislead the least sophisticated consumer into believing that an oral dispute via telephone is sufficient.

21. BCA’s collection dun invites the consumer to call BCA regarding any information about their account.

22. Specifically, BCA’s dun states, “If you have any questions regarding this debt you may speak to an account representative by calling our office.” *See* Exhibit “A.” (emphasis added).

23. This language is confusing and overshadows the required statutory validation notice.

24. BCA's letter is deceptive because a least sophisticated debtor could reasonably believe that if he or she does not owe, or is not responsible for a debt, he or she can make such a dispute by phone.

25. The debtor may mistakenly dispute the debt by calling the collection agency because the letter lists a phone number if the debtor has "any question."

26. The Notice in Defendant's October 5, 2017 collection notice is overshadowed and contradicted by other language in the letter, in violation of the FDCPA. 15 U.S.C. §1692g.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

27. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

28. The October 5, 2017 collection letter from defendant BCA violates the FDCPA by failing to effectively provide Plaintiff with the statutory Notice required by 15 U.S.C. § 1692g.

29. The collection letter from defendant BCA violates the FDCPA's provisions prohibiting debt collectors from using "any false, deceptive, or misleading representation or means in connection with the collection of any debt" and prohibiting "[t]he use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer." 15 U.S.C. §§ 1692e, 1692e(10).

WHEREFORE, Plaintiff, Zuhria S. Farwanah demands judgment against defendant BCA Financial Services, Inc., a Debt Collection Company for:

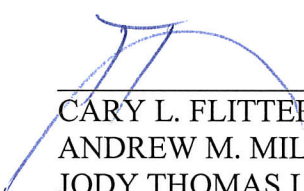
- (a) Damages;
- (b) Attorney's fees and costs;
- (c) Such other and further relief as the Court shall deem just and proper.

V. **DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury as to all issues so triable.

Respectfully submitted:

Date: 11/28/2017



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EXHIBIT "A"

18001 Old Cutler Road, Suite 462
Miami Florida 33157-6437

CHANGE SERVICE REQUESTED

October 5, 2017


ZUHRIA S FARWANAH
2 Castle Ave
Jackson NJ 08527-2406

BCA Financial Services, Inc.

A Debt Collection Company

Phone:305-777-7100, If calling from outside

Miami Dade:888-277-8360

Our office is open 8:00 AM to 5:00 PM Monday through Friday and
some evenings until 8:00 PM, EST

Mail correspondence to:	BCA Financial Services, Inc. 18001 Old Cutler Rd, Ste 462 Miami FL 33157-6437
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Make checks payable and mail to:	Monmouth Medical Center Southern Campus P.O. Box 29965 New York NY 10087-9962
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Please refer to **9649** when calling our office.

Responsible Party: ZUHRIA S FARWANAH

For: ZUHRIA S FARWANAH

Creditor: MONMOUTH MEDICAL CENTER SOUTHERN CAMPUS

Creditor Account Number: **9649**

Occurrence date: 04/16/17

Balance: \$902.00

This account has been placed for collections and is seriously past due. The creditor extended services to you in good faith and expects to be paid for these services.

If you have any questions regarding this debt you may speak to an account representative by calling our office. Absent any communication from you we will expect to receive payment on this account. Our office is open 8:00 AM to 5:00 PM Monday through Friday and some evenings until 8:00 PM, EST.

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

09ONBCAF0190_640123836

Date: October 5, 2017

Creditor Account Number: **9649**

Balance: \$902.00

Amount Paid: \$ _____

Mail correspondence to: BCA Financial Services, Inc. 18001 Old Cutler Rd, Ste 462 Miami FL 33157-6437

Make checks payable and mail to:	Monmouth Medical Center Southern Campus P.O. Box 29965 New York NY 10087-9962
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CIRCLE CARD USING FOR PAYMENT	
CARD NUMBER + 3 OR 4-DIGIT SECURITY CODE (ON BACK)	AMOUNT
CARD BILLING ADDRESS AND ZIP CODE	
SIGNATURE	EXP DATE

Monmouth Medical Center Southern Campus
P.O. Box 29965
New York NY 10087-9962

9649